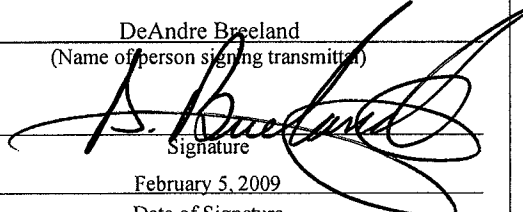


**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Shigeki Matsumoto  
Serial No. : 09/934,192  
For : DATA COMMUNICATION SYSTEM AND DATA  
COMMUNICATION METHOD  
Filed : August 21, 2001  
Examiner : Burgess, Barbara N.  
Art Unit : 2457  
Confirmation No. : 7724

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<b><u>CERTIFICATE OF ELECTRONIC FILING</u></b>
I hereby certify that this correspondence is being transmitted via Electronic Filing Services on February 5, 2009.
DeAndre Breeland (Name of person signing transmittal)
 Signature
February 5, 2009 Date of Signature

**NOTICE OF APPEAL AND  
PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action dated December 5, 2008, having a three-month shortened statutory period for reply set to expire on March 5, 2009, Applicant submits a Notice of Appeal and a Pre-Appeal Brief Request for Review. Applicant presents a List of Rejections for Review, a Brief Summary of the Invention, and an Argument section to show that the rejections are improper.

## **I. REJECTIONS TO BE REVIEWED**

Claims 1-8 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over European Patent Application 0 865 192 A2 to Yamakita (hereinafter, merely “Yamakita”) in view of U.S. Patent No. 6,092,114 to Shaffer, et al. (hereinafter, merely “Shaffer”) and further in view of U.S. Publication No. 2006/0143307 to Codignotto (hereinafter, merely “Codignotto”) and further in view of U.S. Patent No. 6,449,634 to Capiel (hereinafter, merely “Capiel”).

## **II. SUMMARY OF THE INVENTION**

Claim 1 generally relates to a system that allows a user to take a picture, add a processing command at the time of taking the picture, and then send the picture with the text command to a relay server. The processing command instructs the relay server to process the picture as instructed by the command. When the processing command has been predetermined at the relay server, the command may be unique to a camera or transmitting electronic device.

## **III. ARGUMENT**

Claim 1 recites, *inter alia*:

“...a relay server for receiving the e-mail sent from said transmitting electronic device, processing the original data attached to the e-mail based on the added processing command, attaching the processed data to the e-mail, and sending the e-mail to a receiving electronic device,

wherein said processing command is added to the obtained original data at the time the obtained original data is obtained, and

wherein the processing command indicates an instruction for editing the attached obtained original data...

...wherein a unique processing command for the transmitting electronic device is processed when the unique processing command is predetermined between the transmitting electronic device and the relay server.”  
(Emphasis Added)

Applicants submit that Yamakita, Shaffer, Codignotto, Capiel fail to teach or suggest the handling of unique processing commands. Furthermore, Yamakita, Shaffer, Codignotto, and Capiel fail to teach or suggest that a unique processing command for the transmitting electronic device is processed when the unique processing command is predetermined between the transmitting electronic device and the relay server.

As understood by Applicant, Yamakita relates to a portable terminal that transmits image data via a network and an apparatus for performing image processing based on a recognition result of received image data.

As understood by Applicant, Shaffer relates to performing file-format conversions of electronics message attachments.

As understood by Applicant, Codignotto relates to a message publishing system configured to receive a message from a sender and identify the sender as an authorized sender based on information associated with the message in comparison to the data in the sender account.

The Office Action concedes that Yamakita, Schaffer, and Codignotto does not teach or suggest the above-identified features of claim 1. The Office Action relies on Capiel to teach that “wherein a unique processing command for the transmitting electronic device is processed when the unique processing command is predetermined between the transmitting electronic device and the relay server”, as recited in claim 1.

Applicant respectfully disagrees.

In Capiel, when the server receives an image tag from the transmitting electronic device, it looks to database information on the client that the email will be sent to, such as email client profile, software type, version, and whether the client can display certain documents.

Applicant submits that such disclosure does not render claim 1 unpatentable.

Claim 1 recites that a unique processing command is processed when the unique processing command is **predetermined between the transmitting electronic device and the server.**

**Capiel teaches the use of database information concerning the client that is to receive the email and NOT the transmitting electronic device.**

Applicant respectfully submits that nothing has been found in Yamakita, Shaffer, or Codignotto, taken alone or in combination, that would teach or suggest the above-identified features of claim 1.

Specifically, Applicant respectfully submits that Yamakita, Shaffer, Codignotto, and Capiel fail to disclose or suggest that a unique processing command for the transmitting electronic device is processed when the unique processing command is predetermined between the transmitting electronic device and the relay server, as recited in claim 1.

Therefore, independent claim 1 is patentable.

For reasons similar to those described above, independent claim 5 is also believed to be patentable.

The other claims are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the above-identified reasons. Since each dependent claim is also deemed to define an additional aspect of the invention,

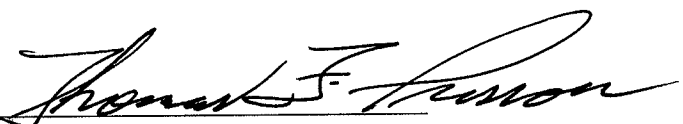
however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Similarly, because Applicant maintains that all claims are allowable for at least the reasons presented hereinabove, in the interests of brevity, this response does not comment on each and every comment made by the Examiner in the Office Action. This should not be taken as acquiescence of the substance of those comments, and Applicant reserves the right to address such comments.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicant respectfully requests early passage to issue of the present application.

Please charge any fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

Respectfully submitted,  
FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicant

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